

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to vital records

The Public Health Department hereby amends Chapter 95, “Vital Records: General Administration,” Chapter 96, “Birth Registration,” Chapter 98, “Marriage Registration,” and Chapter 99, “Vital Records Modifications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 144.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 144.

Purpose and Summary

These amendments will affect persons who are seeking to establish a vital record event or amend a vital record on file. Outlining in rule the process to amend or establish vital records will also assist a judge when issuing an order in a court of competent jurisdiction. Also, midwives or other persons who provide guidance and support to a pregnant woman during labor and delivery will be required to report the home birth event. The amendments will better allow the Department to support the public and protect the integrity of vital records. The following paragraphs describe the amendments in more detail:

The amendments to Chapter 95 will ensure that vital record fees are being assessed per record issued and not per search performed. In addition, language is added to protect the registrant of vital records to ensure that entitlement to a certified copy of any vital record is for the benefit of the person listed on the vital record. Entitlement to a certified copy of a vital record by legal representatives must be on behalf of an entitled family member and also for the benefit of the person on the record.

The amendment to Chapter 96 adds the requirement that a midwife or any person providing assistance with the birth must report a home birth.

The amendment to Chapter 98 outlines the process to establish a delayed marriage record through the court system.

The amendments to Chapter 99 outline the process to amend a certificate of vital record through the court system and to allow for a person to amend a vital record using an established vital record on file.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 21, 2018, as **ARC 4127C**. No public comments were received.

Based on comments from the State Board of Health and members of the Administrative Rules Review Committee, small changes from the Notice were made for clarification.

The first change in rule 641—95.3(144) changes a sentence from “Forms used for the purpose of creating a vital record event shall not be accessible to the general public” to “Official designated forms used for the express purpose of creating a vital record event shall not be accessible to the general public unless authorized by rule.”

The second change strikes the wording “the search and” from paragraph 95.6(1)“b.” This was an oversight of wording that should have been stricken in the Notice.

The third change clarifies the requirement of persons to report a non-institution Iowa live birth. A definition of “doula” that was proposed in Item 1 of the Notice was not adopted, so Item 1 has been removed. The remaining Items have been renumbered.

The last changes clarify the reporting requirement by removing the word “doula” and replacing it with “any person providing assistance with the birth” in paragraph 96.7(1)“b” and by removing the word “doula” and adding the words “who is” for the same type of clarification in subrule 96.7(4).

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s variance and waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 15, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—95.3(144), introductory paragraph, as follows:

641—95.3(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand. Official designated forms used for the express purpose of creating a vital record event shall not be accessible to the general public unless authorized by rule.

ITEM 2. Amend subrules 95.6(1) and 95.6(2) as follows:

95.6(1) Fees for services provided by state registrar or county registrar. The following fees shall be charged and remitted for the various services provided by the state registrar or the county registrar.

a. The state registrar or county registrar, as applicable, shall charge a fee of \$20 to conduct a search for a record. On and after July 1, 2019, this fee will revert to \$15 for a certified copy of a vital record.

(1) ~~The search fee shall include one certified copy of the record.~~

(2) ~~For each additional certified copy of the same record, a \$20 fee shall be charged. On and after July 1, 2019, this fee will revert to \$15.~~

(3) If, following a search, no record is found and no certified copy is printed, the \$20 fee may be retained. On and after July 1, 2019, this fee will revert to \$15.

b. The state registrar shall charge a fee of \$20 to prepare an adoption certificate, to amend a certificate, to amend a certificate of live birth to reflect a legal change of name, to prepare a delayed certificate, to process other administrative or legal actions, or for ~~the search and~~ preparation of copies of

supporting documents on file in the state registrar's office. On and after July 1, 2019, this fee will revert to \$15. No fee shall be charged for establishment of paternity.

c. The state registrar shall charge a fee of \$25 to file a completed application for the mutual consent voluntary adoption registry.

d. The state registrar shall charge a fee of \$5 to update applicant information maintained in the mutual consent voluntary adoption registry and the declaration of paternity registry.

e. The state registrar shall charge a fee of \$20 to amend an abstract or other legal documentation in support of the preparation of a new certificate. On and after July 1, 2019, this fee will revert to \$15.

f. The state registrar shall charge a fee of \$35 to ~~conduct a search for a record for the purpose of issuing~~ issue a commemorative copy of a certificate of birth or a certificate of marriage pursuant to Iowa Code section 144.45A. Fees collected shall be deposited in the emergency medical services fund established in Iowa Code section 135.25.

g. The state registrar shall charge a fee of \$20 ~~to conduct a search for a certificate of fetal death~~ for the purpose of issuing an uncertified copy of a certificate of birth resulting in stillbirth pursuant to Iowa Code section 144.31A. On and after July 1, 2019, this fee will revert to \$15.

95.6(2) Overpayments. Any overpayment of \$5 or less received by the state registrar for the copying of ~~or search for~~ vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department.

ITEM 3. Amend paragraph **95.8(1)“d”** as follows:

d. Other persons who demonstrate a direct tangible interest and entitlement when it is shown that the certified copy is needed to determine or protect a personal or property interest and the interest is for the benefit of the registrant.

ITEM 4. Amend paragraph **95.8(2)“d”** as follows:

d. Commercial firms or agencies requesting lists of vital record events, or lists of names, or lists of addresses, or that are not legal representatives requesting records on behalf of entitled individuals.

ITEM 5. Amend rule 641—96.7(144) as follows:

641—96.7(144) Non-institution birth.

96.7(1) In case of a non-institution Iowa live birth, the official non-institution birth worksheet shall be completed and filed with the state registrar by one of the following in the indicated order of priority:

a. The physician in attendance at or immediately after the live birth.

b. Any other person, including a certified nurse midwife or any person providing assistance with the birth, in attendance at or immediately after the live birth.

c. The mother or her legal spouse.

d. The person in charge of the premises where the live birth occurred.

96.7(2) No change.

96.7(3) An Iowa-licensed certified nurse midwife may preregister with the state registrar by submitting a ~~dated statement on business letterhead identifying the midwife's business name, if applicable, printed full name and original signature of the midwife, professional title, license number, address and telephone number~~ completed Iowa-Licensed CNM Pre-Registration Application For Home Births and a clear photocopy of that person's current government-issued photo identification.

a. ~~Certified~~ To register a live birth, certified nurse midwives who are preregistered shall submit to the state registrar ~~for registration of the live birth at a minimum~~ the following:

(1) A cover letter that is on the business letterhead, that identifies the live birth submitted for registration, that supports the facts of the live birth, and that contains the original signature of the person responsible for registering the live birth;

(2) The original official non-institution birth worksheet completed and signed pursuant to subrule 96.7(5) or as directed by the state registrar; and

(3) Payment of fees, which shall be included with the birth worksheet; and

(4) Other evidence acceptable to the state registrar as requested.

b. It is the responsibility of the individual preregistering to update any information provided in the individual's original registration.

96.7(4) ~~Certified nurse midwives~~ A certified nurse midwife, or any person providing assistance with the birth, who is not preregistered prior to submitting a certificate of live birth for registration shall follow subrules 96.7(1), 96.7(2) and 96.7(5) for all live births the midwives attend person attends outside a birthing institution.

96.7(5) No change.

ITEM 6. Amend subrule 98.7(6) as follows:

98.7(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence required to establish a delayed certificate of marriage, the state registrar shall not register the delayed record.

a. The written notice of rejection from the state registrar shall include:

- (1) The Delayed Certificate of Marriage form stamped "rejected"; and
- (2) The Delayed Evidence Refusal form.

b. Applications for delayed certificates which have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar shall advise the applicant, and all documents submitted in support of such registration shall be returned to the applicant. The state registrar shall provide information related to the applicant's right of appeal to the district court.

c. If a request to establish a delayed certificate of marriage is rejected under the provisions of Iowa Code section 144.16, a petition may be filed with the district court for an order to establish a delayed certificate of marriage. The petition shall:

- (1) Be made on a form prescribed and furnished by the state registrar.
- (2) Allege that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with Iowa Code section 144.16.
- (3) Allege that the state registrar has refused to establish the delayed certificate of marriage.
- (4) Include such other allegations as may be required.
- (5) Be accompanied by a statement of the registration official made in accordance with Iowa Code section 144.16 and all documentary evidence which was submitted to the registration official in support of such registration.
- (6) Be verified by the petitioner.

ITEM 7. Amend subrules 99.6(1) and 99.6(2) as follows:

99.6(1) Amendments of vital records may be made by the state registrar one year or more after the date of the event upon request from an entitled person or by an order to amend the record by a court of competent jurisdiction. Amendments include the correction of obvious errors, omissions, or transposition of letters in words of common knowledge.

99.6(2) For a certificate of live birth, entitled persons include in the following descending order of priority:

a. The registrant, if the registrant is of legal age, has reached the age of majority or is an emancipated minor;

~~a.~~ b. Either parent as shown on the child's certificate of live birth; or

~~b.~~ The mother, in the case of the death or incapacity of the second parent;

~~c.~~ The second parent if listed on the birth certificate, in the case of the death or incapacity of the mother; or

~~d.~~ c. The legal guardian or agency having legal custody of the child.

ITEM 8. Amend subrule 99.6(7) as follows:

99.6(7) The documentary evidence shall have been established at least five years prior to the date of the application or within seven years of the date of the event.

a. The state registrar shall determine a priority of best evidence and may, at the state registrar's discretion, require additional documentary evidence to support the requested amendment.

b. The state registrar shall evaluate the evidence submitted in support of any amendment, and when there is reason to question the validity or adequacy of the evidence, the state registrar may reject the amendment and shall advise the applicant of the reasons for this action and provide information related to the applicant's right of appeal to the district court pursuant to Iowa Code section 144.38.

c. If a request to amend a certificate of birth is rejected under the provisions of Iowa Code section 144.38, a petition may be filed with the district court for an order amending a vital record. The petition shall:

- (1) Be made on a form prescribed and furnished by the state registrar.
- (2) Allege that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with Iowa Code section 144.38.
- (3) Allege that the state registrar has refused to amend the certificate of vital record.
- (4) Include such other allegations as may be required.
- (5) Be accompanied by a statement of the registration official made in accordance with Iowa Code section 144.38 and all documentary evidence which was submitted to the registration official in support of such registration.
- (6) Be verified by the petitioner.

ITEM 9. Amend rule 641—99.9(144) as follows:

641—99.9(144) Other amendments to certificate of live birth.

99.9(1) The parent's name or both parents' names as reported by the parent or parents on the birth worksheet used to establish the certificate of live birth shall ~~not be corrected~~ only be amended if the amendment is supported by a certified copy of a vital record or amended except by an order from a court of competent jurisdiction.

99.9(2) Certificates of live birth of deceased persons shall ~~not be amended~~ only be amended if the amendment is supported by a certified copy of a vital record or amended by an order from a court of competent jurisdiction.

ITEM 10. Amend rule 641—99.11(144) as follows:

641—99.11(144) Correction or amendment to a certificate of marriage.

99.11(1) and 99.11(2) No change.

99.11(3) ~~The correction or amendment process shall not be used to change a legal name after marriage~~ An order from a court of competent jurisdiction is required to correct or amend a legal name after marriage.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/10/19.